

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

FOR NOVEMBER 21, 2006

The **Regular Meeting** of the Council of Commissioners was called to order Tuesday, **November 21, 2006** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb.

ROLL CALL

10 Present and 2 absent. Commissioner Fay and Bury were excused.

PRAYER

Commissioner Coleman led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE NOVEMBER 1, 2006 REGULAR MEETING

It was moved by Commissioner O'Leary, seconded by Commissioner Sheehy and carried by a unanimous verbal vote to approve the Minutes of the November 1, 2006 Regular Meeting.

ITEMS NOT ADDRESSED ON THE AGENDA – SUSPENSION OF THE RULES

Commissioner O'Leary moved that in accordance with the provisions of Subsection 6 of Rule VI of the Rules of Business of the Council of Commissioners of the City and County of Butte-Silver Bow, State of Montana, the Council hereby finds that an emergency condition exists which requires that the Council Rules be suspended to allow Communication 06-689 to be added to the agenda of tonight's Regular Meeting of the Council of Commissioners. The motion was seconded by Commissioner Sheehy and carried by a roll call vote of 10 yeas, 0 nays and 2 absent.

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

Dr. John W. Ray, 915 West Galena spoke on the public hearing to be held next week on for the proposed settlement agreement with Arco. He passed out a copy of a handout that outlines the concerns that he has. He commented briefly on each of his concerns as listed in his handout.

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb urged the commissioners to look at the settlement agreement with a close eye. He reminded everyone that they had hired an expert, Gordon Hart, out of San Francisco. He deals with Superfund law. He also urged the commissioners to solicit comments from the public.

He gave an update on the NRD Advisory Council project where Butte-Silver Bow will be doing the waterline replacement. Instead of going out for bid on that Butte-Silver Bow will be doing the work ourselves. The Advisory Council did OK that again and now it's on to the Governor's Trustee Council. It is moving forward like we wanted it to move. We are in the process of coming up with projects for the next funding cycle. He asked the commissioners if they have any projects that they would like to see that we can apply for NRD money, please let him know.

On the Wage and Salary Survey, we are working with all the collective bargaining units to see if they would like to participate. The unions said that they do not want to participate. We are moving forward with the non-union.

Last Friday we had some good news up at Montana Tech. We got the Economic Development Summit that will be coming in 2007. Senator Max Baucus announced that we will have approximately 1,000 people from across the state that will be coming to talk about economic development. It will be a great chance for Butte to showcase what we have to offer.

He informed everyone that this month's Employee of the Month is Todd Hoar. If you see Todd do congratulate him.

The applications for the Butte Restoration Alliance has come out of our efforts to form a vision for the Butte Hill. Now we can start talking about projects that we would submit to NRD and other funding sources out there.

Communication No. 06-689 (emergency communication)

Rick Gelling, Equipment Foreman, requesting time on 11/21/06 agenda to conduct a bid opening for a cold planer. Proof of publication was noted and placed on file.

John Van Daveer, Public Works Director, opened the one bid received from Western States Equipment in the amount of \$762,810.00.

It was moved by Commissioner O'Leary, seconded by Commissioner Sheehy and carried by a unanimous verbal vote to refer the bid be referred to the

Public Works Department for final review and report back and that Communication No. 06-689 be placed on file.

SECTION I

PUBLIC HEARING

FOR THE PURPOSE OF HEARING COMMENTS CONCERNING COMMUNITY DECAY VIOLATIONS AT 624 S. DAKOTA STREET. (Communication No.06-668 being held in Committee of the Whole) **Proof of publication was noted and placed on file.**

Ed Randal, Community Enrichment Coordinator gave the staff report and handed out packets to each commissioner for 624 S. Dakota. He said they were asking the Council to order demolition and removal of debris at 624 S. Dakota. Mark Reavis, BSB Property Manager and Preservation Advisor gave further background on the building and said it needs to be addressed immediately.

Chief Executive Babb opened the public hearing at 7:45 PM and called for any proponents. On the third and final call he called for any opponents. Again, there was no response so he called the public hearing closed at 7:46PM.

SECTION II

PUBLIC HEARING

FOR THE PURPOSE OF HEARING COMMENTS ON AMENDING CHAPTER 2.64 OF THE BUTTE-SILVER BOW MUNICIPAL CODE ENTITLED “HISTORIC PRESERVATION COMMISSION” AND REPEALING CHAPTER 17.33 OF THE BUTTE-SILVER BOW MUNICIPAL CODE ENTITLED “HISTORIC OVERLAY ZONE.” (Communication No. 06-669 being held in Committee of the Whole) **Proof of publication was noted and placed on file.**

Mark Reavis, BSB Property Manager and Preservation Advisor gave the staff report. He gave the history of the Historic Preservation and said that Butte-Silver Bow was given notice by the State Historic Preservation Office that this program didn’t meet minimum requirements. They did this notification through probation of our certified local government and these problems were also noted on a national level by the US Department of the Interior placing a threatened status on our National Historic Landmark. Both the probation and the threatened status have been removed because of positive steps made by BSB certified local government preservation program.

Chief Executive Babb opened the public hearing at 8:06 PM and called for any proponents. The following came forth in favor of the ordinance:

1. John Ray, 915 W. Galena
2. Richard Gibson, 301 N. Crystal,

3. Ellen Crain, Archivist
4. Ann Colesar, 120 Concord St. in Pennsylvania
5. Larry Smith, Butte Citizens for Preservation
6. Julie Crowley
7. Denis Dutton, 1925 Lowell
8. Mitzi Rossillion, 815 W. Granite
9. Marilyn McCormick
10. Nicole Longausa, 202 N. Crystal
11. Bill McGregor, 917 W. Broadway
12. Kelly Rosa, 1135 W. Mercury
13. Cindi Shaw
14. Justine Conlan
15. Norm DeNeal, 2001 Porter
16. Phyliss Hargrave, 1115 Lewisohn

Chief Executive Babb then called for opponents. On the third and final call there being none he closed the public hearing at 5:40 PM.

SECTION III

CONSENT AGENDA

- A.
 1. COMMITTEE OF THE WHOLE MEETING REPORT
 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
 3. JUDICIARY COMMITTEE MEETING REPORT
 4. PUBLIC WORKS COMMITTEE MEETING REPORT

B. PETITIONS

1. 06-09 John Harrington, Building Official, requesting on behalf of Charles and Roxanna Bulen, Sportsman Motel and RV to close and vacate a portion of 5th Street in Melrose between Blocks 8 and 10, Melrose Townsite. **Recommendation: refer to Public Works Committee**

C. COMMUNICATIONS

Before entertaining a motion on the Consent Agenda, Chief Executive Babb called for any segregations. Commissioner O'Leary asked for a "friendly amendment" to change Petition No. 06-69 to 06-09. He also called for a "friendly amendment" to Communication No. 06-69-86. Change the recommendation from "concur and place on file" to "refer the communication and the resolution to the Committee of the Whole Sitting as Judiciary".

Commission Coleman segregated Communication No. 06-684.
Commissioner O'Leary segregated Communication No. 06-668.

It was then moved by Commissioner O’Leary, seconded by Commissioner Sheehy and passed with a unanimous verbal vote to approve the Consent Agenda Section III-A, Items 1 through 4, Section B, Section C, Items 1 through 25, exclusive if those items segregated.

Communication No. 06-668 – **It was moved by Commissioner Sorich, seconded by Commissioner Coleman and carried by a unanimous verbal vote to ask the Chief Executive to direct the Public Works Committee to start demolition of 624 S. Dakota.**

Communication No. 06-684 – Commissioner Coleman asked what the time frame was for the works to be done. John Van Daveer, Public Works Director, said the material was just procured this fall and the construction contract is going to be let next Spring. **Commissioner Coleman moved to concur and place on file. Commissioner Sheehy seconded the motion and it carried with a unanimous verbal vote.**

SECTION IV COMMUNICATIONS TO BE READ AND ACTED UPON

1. 06-680 Residents near 1200 block of W. Porphyry, regarding the establishment of Hotohke House in the 1200 block of W. Porphyry Street.

There was no one from staff to speak to this so Chief Executive asked for any neighbor who wished to speak. The following came forth to speak against this establishment:

1. Bobby Whitehall, 1215 W. Porphyry
2. Judith Duryea, 1236 W. Gold
3. Dan Foley, 910 W. Porphyry
4. Ginger Conway, 1220 W. Porphyry

Catherine Lasky of 1230 W. Porphyry came forth to speak in favor of the establishment of the Hotohke House.

County Attorney McCarthy advised the audience and the Council that this was being heard in the wrong place. The neighbors need to take us their concerns with the Planning Department.

It was then moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried by a unanimous verbal vote to place Communication No. 06-680 on file.

SECTION V

ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY

1. COUNCIL BILL NO. 06-11 ORDINANCE NO. 06-11

AN ORDINANCE AMENDING SUBSECTION 9.01 OF SECTION 4 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND SECTION 10.32.010(i) OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “STOP SIGNS”; PROVIDING THAT TRAFFIC PROCEEDING ALONG ILLINOIS AVENUE SHALL STOP BEFORE ENTERING THE INTERSECTION OF ILLINOIS AVENUE AND CLARK STREET AND PROVIDING FOR AN EFFECTIVE DATE HEREIN

2. COUNCIL RESOLUTION NO. 06-110

A RESOLUTION AUTHORIZING AND APPROVING THE ALLOCATION AND SETTLEMENT AGREEMENT BETWEEN THE CITY AND COUNTY OF BUTTE-SILVER BOW AND ATLANTIC RICHFIELD COMPANY CONCERNING THE BUTTE PRIORITY SOILS CLEANUP SOLUTION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION VI

ORDINANCES AND RESOLUTIONS – FINAL READING

1. COUNCIL BILL NO. 06-9 ORDINANCE NO. 06-9

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 195 AND TITLE 15 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “BUILDING AND CONSTRUCTION”; AMENDING CHAPTER 15.04 ENTITLED “BUILDING CODE”; AMENDING CHAPTER 15.18 ENTITLED “ELECTRICAL CODE”; AMENDING SECTION 15.04.010 AND DELETING REFERENCE TO APPENDIX H (SIGNS); AMENDING SECTION 15.18.010 AND ADOPTING THE 2005 EDITION OF THE NATIONAL ELECTRICAL CODE (NEC); AMENDING SECTION 15.18.045 AND ADOPTING REFERENCE TO NEC ARTICLE 210.23(A) AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was move by Commissioner O’Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Bill No. 06-9, Ordinance No. 06-9 on final reading and passed having been deemed fully read at length.**

2. COUNCIL RESOLUTION NO. 06-99

A RESOLUTION CREATING SPECIAL IMPROVEMENT DISTRICT NO. 1026 FOR THE PURPOSE OF MAINTAINING AND INSTALLING AN ELECTRICAL LIGHTING SYSTEM; DESIGNATING AND DESCRIBING THE BOUNDARIES OF SAID PROPOSED SPECIAL IMPROVEMENT LIGHTING DISTRICT; STATING THE PURPOSE OF AND THE GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE IN SAID SPECIAL IMPROVEMENT DISTRICT; ESTIMATING THE APPROXIMATE COST OF MAINTAINING AND SUPPLYING ENERGY THEREOF FOR THE FIRST YEAR; FINDING, DETERMINING, AND DECLARING THAT SUCH PROPERTY SHOULD BE ASSESSED FOR COST THEREOF OF MAINTENANCE AND ENERGY AND EXTENDING SUCH ASSESSMENT TO BE IN SEMI-ANNUAL INSTALLMENTS AND PROVIDING FOR THE FUND UPON WHICH SAID SPECIAL IMPROVEMENT FUNDS SHALL BE DRAWN; WITHDRAWING ALL PROPERTY DESCRIBED IN EXHIBIT "A" FROM OTHER SPECIAL IMPROVEMENT LIGHTING ASSESSMENTS AND PROVIDING FOR THE EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 06-99 on final reading and passed having been deemed fully read at length.**

3. COUNCIL RESOLUTION NO. 06-100

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF PERSONAL PROPERTY LOCATED AT 16 EAST TOBOGGAN, WALKERVILLE, MONTANA, DESCRIBED AS A ONE STORY, TWO BEDROOM, 1 BATH NO TITLE BUILDING ON LOT 14 IN BLOCK 6 OF THE WALKERVILLE TOWNSITE OWNED BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 06-100 on final reading and passed having been deemed fully read at length.**

4. COUNCIL RESOLUTION NO. 06-104

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-BOARD OF CRIME CONTROL TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING

FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O'Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 06-104 on final reading and passed having been deemed fully read at length.

5. COUNCIL RESOLUTION NO. 06-107

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE KECK ACRES II MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O'Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 06-107 on final reading and passed having been deemed fully read at length.

6. COUNCIL RESOLUTION NO. 06-108

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE BUTTE-SKI CLUB NO. 6 MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O'Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 06-108 on final reading and passed having been deemed fully read at length.

**SECTION VII ORDINANCES AND RESOLUTIONS –
SUSPENSION OF THE RULES**

It was moved by Commissioner O'Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 10 yeas, 0 nays and 2 absent for suspension of the rules for the purpose of passing Council Resolution No. 06-106 by waiving subsection 7 of Rule XXXVI, of the Rules and Order of Business of the Council of Commissions, thereby having it considered for advanced passage without reference to the Judiciary Committee

1. COUNCIL RESOLUTION NO. 06-106

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A CERTAIN PARCEL OF REAL PROPERTY KNOWN AS 807 SOUTH DAKOTA, LEGALLY DESCRIBED AS LOT 10 IN BLOCK 6 OF THE OPHIR ADDITION, BUTTE-SILVER BOW COUNTY, MONTANA FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH

THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O'Leary, seconded by Commissioner Sheehy and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 06-106 on final reading and passed having been deemed fully read at length.

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner O'Leary, seconded by Commissioner Bury and carried by unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 9:20 PM.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER